

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

OSCAR L. JOHNNY, JR.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 10-04008-CV-FJG
	)	
LARRY BORNOWSKI and	)	
STAMPEDE CARRIERS, LLC,	)	
et al.,	)	
Defendants.	)	

**ORDER**

The Court held a pretrial teleconference in the above-styled action on September 17, 2012 (Doc. No. 177). Pursuant to discussions at the pretrial teleconference, it is hereby **ORDERED**:

1. The parties' have consented for United States Magistrate Judge Matt J. Whitworth to impanel and instruct the jury for the trial in this matter.
2. Defendants' Motion for Leave to Conduct Evidentiary Deposition of Defense Expert Dr. Patrick Caffrey (Doc. No. 173) is **GRANTED** in part and **DENIED** in part. Dr. Caffrey's evidentiary deposition shall be taken on September 24, 2012.
3. Upon review of the additional materials submitted by Plaintiff in accordance with the Court's Order on Plaintiff's Motion for Reconsideration (Doc. No. 162), the Court is not persuaded that Dr. Deutsch's testimony regarding Plaintiff's participation in a chronic pain management program and Plaintiff's diminished work life or probability Plaintiff will be able to return to work is

within the boundaries of Deutsch's qualifications as a psychologist and rehabilitation expert. As such, Plaintiff's Motion for Reconsideration (Doc. No. 130) with regard to these areas is **DENIED**. To the extent Dr. John Ward's economic forecast relies on Dr. Deutsch's testimony in these areas, Dr. Ward's testimony is inadmissible.

4. Defendants' Motion to Strike (Doc. No. 175) is **GRANTED** in part and **DENIED** in part.
  - a. Dr. Broom's untimely January 30, 2012 affidavit is stricken. The untimely affidavit goes beyond the confines of merely clarifying Dr. Broom's original affidavit. Plaintiff is precluded from eliciting any opinions from Dr. Broom at trial not contained within his original disclosure. As such, Dr. Paul Deutsch is precluded from relying upon any information contained in Dr. Broom's January 30, 2012 affidavit at trial. Dr. Paul Deutsch and Dr. John Ward are limited to the opinions consistent with prior orders entered by this Court.
  - b. Plaintiff's Supplemental List of Non-Retained Experts filed pursuant to the Court's June 29, 2012 Order (Doc. No. 167) shall be permitted to testify only as to the four corners of the medical records. Testimony not reasonably implied from the medical records shall not be permitted.
  - c. Witnesses not specified by name shall not be permitted to testify.
5. The parties shall submit a statement of the case **on or before September 28, 2012**.

6. The parties shall exchange witness lists. This includes notation of which witnesses will be appearing live. The list shall be exchanged **on or before October 3, 2012.**
7. The parties are reminded of the trial limitations set forth by the Court on February 21, 2012 (Doc. No. 160). Opening statements are limited to 15 minutes for each party.

**IT IS SO ORDERED.**

Date: September 20, 2012  
Kansas City, Missouri

**S/ FERNANDO J. GAITAN, JR.**  
Fernando J. Gaitan, Jr.  
Chief United States District Judge